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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 11th September, 1984/Bhadra 20, 1906 (Saka)

The following Act of Parliament received the assent of the President on the 11th September, 1984, and is hereby published for general information:—

THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

No. 62 OF 1984

[*11th September, 1984.*]

An Act to provide for the establishment of the Industrial Reconstruction Bank of India, and for the transfer to, and vesting in, the said Reconstruction Bank, of the undertaking of the Corporation known as the Industrial Reconstruction Corporation of India Limited, with a view to enabling the said Reconstruction Bank to function as the principal credit and reconstruction agency for industrial revival and to coordinate similar work of the other institutions engaged therein and to assist and promote industrial development, and to rehabilitate industrial concerns, and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title and commencement.

1. (1) This Act may be called the Industrial Reconstruction Bank of India Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appointed day", in relation to any provision of this Act, means the date on which such provision comes into force and any reference to the appointed day in any provision of this Act shall be construed as a reference to the commencement of that provision;

(b) "assistance" means any direct or indirect financial, managerial or technical assistance granted by the Reconstruction Bank in pursuance of any business referred to in section 18;

(c) "assisted industrial concern" means any industrial concern to which any assistance has been given by the Reconstruction Bank;

(d) "Board" means the Board of directors of the Reconstruction Bank;

(e) "charge" includes a charge referred to in section 37;

(f) "Corporation" means the Industrial Reconstruction Corporation of India Limited, a company formed and registered under the Companies Act, 1956, and having its registered office in the State of West Bengal; 1 of 1956.

(g) "Development Bank" means the Industrial Development Bank of India, established under section 3 of the Industrial Development Bank of India Act, 1964; 18 of 1964.

(h) "dues" means any dues payable by any person to the Reconstruction Bank in relation to any assistance given by, or any bond or debenture issued to, the Reconstruction Bank, and includes interest, rent, costs, charges and commission payable in relation thereto;

(i) "industrial concern"—

(1) means any concern engaged, or to be engaged, in—

(i) the manufacture, preservation or processing of goods;

(ii) shipping;

(iii) mining;

(iv) the hotel industry;

(v) the transport of passengers or goods by road or by water or by air or by ropeway or by lift;

(vi) the generation or distribution of electricity or any other form of power;

(vii) the maintenance, repair, testing or servicing of machinery of any description or vehicles or vessels or motor boats or trailers or tractors;

(viii) assembling, repairing or packing any article with the aid of machinery or power;

(ix) the development of any contiguous area of land as an industrial estate;

(x) fishing or providing shore facilities for fishing or maintenance thereof;

(*xi*) providing special or technical knowledge or other services for the promotion of industrial growth; or

(*xii*) the research and development of any process or product in relation to any of the matters aforesaid,

(*2*) and includes—

(*i*) an undertaking owned, controlled or managed by a company, firm or other body corporate, which is, or is to be, so engaged,

(*ii*) such other concern as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Explanation.—The expression "processing of goods" includes any art or process for producing, preparing or making an article by subjecting any material to a manual, mechanical, chemical, electrical or any other like operation;

(*j*) "nationalised bank" means a corresponding new bank as defined in section 2 of the—

(*i*) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970; 5 of 1970.

(*ii*) Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980; 40 of 1980.

(*k*) "prescribed" means prescribed by rules made under this Act;

(*l*) "public financial institution" means a public financial institution specified in, or under, section 4A of the Companies Act, 1956; 1 of 1956.

(*m*) "Reconstruction Bank" means the Industrial Reconstruction Bank of India, established under section 3;

(*n*) "regulation" means a regulation made under this Act;

(*o*) "Reserve Bank" means the Reserve Bank of India constituted under section 3 of the Reserve Bank of India Act, 1934; 2 of 1934.

(*p*) "share" means a share in the capital of the Corporation;

(*q*) "shareholder" means a person registered by the Corporation as the holder of a share;

(*r*) "scheduled bank" means a bank for the time being included in the Second Schedule to the Reserve Bank of India Act, 1934; 2 of 1934.

(*s*) "State Bank" means the State Bank of India constituted under section 3 of the State Bank of India Act, 1955; 23 of 1955.

(*t*) "State co-operative bank" means the principal co-operative society in a State, the primary object of which is the financing of other co-operative societies in the State;

(*u*) "State Financial Corporation" means a financial corporation established under section 3 or section 3A or an institution notified under section 46, of the State Financial Corporations Act, 1951; 43 of 1951.

(*v*) "State level agency" means such institution or agency, operating in any State or Union territory, as may be specified as its agency by the Reconstruction Bank.

CHAPTER II

ESTABLISHMENT OF THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA

Establishment of the Reconstruction Bank.

3. (*1*) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint, there shall be established, for the purposes of this Act, a corporation, to be known as the Industrial Reconstruction Bank of India.

(*2*) The Reconstruction Bank shall be a body corporate with the name aforesaid, having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property, and to contract, and may, by that name, sue and be sued.

(*3*) The head office of the Reconstruction Bank shall be at Calcutta, and the Reconstruction Bank may establish offices, branches or agencies at any other place, whether in, or outside, India.

Authorised capital.

4. (*1*) The authorised capital of the Reconstruction Bank shall be rupees two hundred crores.

(*2*) The initial paid-up capital of the Reconstruction Bank shall be rupees fifty crores which shall be obtained,—

(*a*) by the appropriation, out of the assets of the Corporation which stand transfered to the Reconstruction Bank by virtue of the provisions of section 5, of a sum of rupees twenty crores, being an amount equal to the amount paid-up on the shares of the Corporation;

(*b*) by the conversion, to the extent of rupees twenty crores, of the loans granted by the Central Government to the Corporation, into the capital of the Reconstruction Bank; and

(*c*) by the subscription, by the Central Government, to the paid-up capital of the Reconstruction Bank, of a sum of rupees ten crores.

(*3*) The Reconstruction Bank may increase its paid-up capital by making further issue of shares of such amount as it may think expedient, but in doing so, the Reconstruction Bank shall ensure that its total capital does not, in any case, exceed its authorised capital.

(*4*) The entire paid-up capital of the Reconstruction Bank shall be wholly subscribed by, and allotted to, the Central Government.

CHAPTER III

ACQUISITION AND TRANSFER OF THE UNDERTAKING OF THE INDUSTRIAL RECONSTRUCTION CORPORATION OF INDIA LIMITED

Undertaking of the Corporation to be transferred to the Reconstruction Bank.

5. (*1*) On such date as the Central Government may, by notification in the Official Gazette, appoint, the undertaking of the Corporation shall stand transferred to, and shall vest in, the Reconstruction Bank.

(*2*) For the transfer to, and vesting in, the Reconstruction Bank of the undertaking of the Corporation, the Corporation shall be given, in cash, by the Central Government an amount equal to the amount of the total paid-up capital of the Corporation.

(*3*) The undertaking of the Corporation shall be deemed to include all assets, business, rights, powers, authorities and privileges and all pro-

perty, movable and immovable, cash balances, reserve funds, investments, book-debts and all other rights and interests in, or arising out of, such property as were, immediately before the appointed day, in the ownership, possession, power or control of the Corporation whether within or outside India, and all books of account, registers, records, and all other documents of whatever nature relating thereto, and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the Corporation in relation to its undertaking.

(4) Unless otherwise expressly provided by this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day and to which the Corporation is a party or which are in favour of the Corporation, shall be of as full force and effect against or in favour of the Reconstruction Bank, and may be enforced or acted upon as fully and effectually as if, in the place of the Corporation, the Reconstruction Bank had been a party thereto or as if they had been issued in favour of the Reconstruction Bank.

(5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to the business of the undertaking which has been transferred under this section, is pending by, or against, the Corporation, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the Corporation or of anything contained in this Act, and the suit, appeal or other proceeding may be continued, prosecuted and enforced by, or against, the Reconstruction Bank.

Power of Central Government to authorise a person to take over the management of the Corporation.

(6) (1) The Central Government may appoint, on or after the appointed day, a suitable person to take over the management of the Corporation for the purpose of winding up of the Corporation, and, where any person is so appointed, it shall be the duty of such person to bring the operations of the Corporation to a close, realise the amounts payable to the Corporation under sub-section (2) of section 5, and distribute the said amount to the shareholders in accordance with their rights and interests, and after such realisation and distribution, to obtain the order of the Central Government for the dissolution of the Corporation.

(2) For the purposes of sub-section (1), the person appointed under that sub-section shall have such powers and duties of the Official Liquidator under the Companies Act, 1956, as are necessary to give effect to the provisions of sub-section (1) as if the Corporation were being wound up by the Court, and, for this purpose the provisions of the Companies Act, 1956 shall apply, subject to the modification that for the word "Court", wherever it occurs, the words "Central Government" shall be substituted.

1 of 1956.

(3) When any person is appointed by the Central Government under sub-section (1), to take over the management of the Corporation,—

1 of 1956.

(a) the provisions of the Companies Act, 1956, or of any other law for the time being in force, or any instrument having effect by virtue of any Act, or other law, shall, in so far as they are inconsistent with the provisions of this Act, cease to apply to, or in relation to, the Corporation;

(b) all persons holding office as Chairman and Managing Director and other directors, of the Corporation, immediately before

the appointment of the person under sub-section (*1*), shall be deemed to have vacated their offices as such.

(*4*) Notwithstanding anything contained in this Act or in any other law for the time being in force or in any agreement or contract, any person holding, immediately before the appointed day, office as the Chairman or director of the Corporation, who vacates his office as such on the appointed day by reason of the provisions of sub-section (*3*), shall not be entitled to any compensation from the Reconstruction Bank for the loss of office or for the premature termination of any agreement or contract relating to his employment, except such compensation or other benefit which the Reconstruction Bank may grant to him, having regard to what that person would have received as an officer of the Corporation if this Act had not been passed and if he had retired from his employment in the ordinary course.

Transfer of the services of the officers and other employees of the Corporation to the Reconstruction Bank.

7. (*1*) Save as otherwise provided in sub-section (*3*) of section 6, every officer or other employee of the Corporation shall become, on and from the appointed day, an officer or other employee, as the case may be, of the Reconstruction Bank and shall hold his office or service in that bank on the same terms and conditions and with the same rights to gratuity and other matters as would have been admissible to him, if the undertaking of the Corporation had not been transferred to, and vested in, the Reconstruction Bank, and continue to do so unless and until his employment in the Reconstruction Bank is duly terminated or until his remuneration, terms and conditions are duly altered by the Reconstruction Bank:

Provided that an officer or other employee who does not intend to continue as an employee of the Reconstruction Bank may, within ninety days from the appointed day, serve a notice of his intention to the Reconstruction Bank, and, on the expiry of the period of thirty days from the date of service of the notice, he shall cease to be an employee of the Reconstruction Bank and, on such cesser, superannuation and other benefits due to him under the terms of his employment shall be paid to him forthwith by the Reconstruction Bank as if he had retired from service.

(*2*) Any person who, on the appointed day, is entitled to, or is in receipt of, any superannuation or compassionate allowance or benefit from the Corporation or any provident or other fund or any authority administering such fund shall be entitled to be paid by, and to receive from, the Reconstruction Bank or any provident or other fund or any authority administering such fund, the same allowance or benefit so long as he observes the conditions on which the allowance or benefit was granted, and, if any question arises whether he has so observed such conditions, the question shall be determined by the Central Government and the decision of the Central Government thereon shall be final.

(*3*) Where, under the terms of any contract of service or otherwise, any person whose service becomes transferred to the Reconstruction Bank by reason of the provisions of this Act is entitled to any payment by way of gratuity or retirement benefit or compensation for any leave not availed of, or any other benefits, such person may enforce his claim against the Reconstruction Bank.

(*4*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), no application made or promotion, increment in salary, allow-

ance or any other benefit granted to any person, before the appointed day, which would not ordinarily have been made or granted or which would not ordinarily have been admissible under the rules or authorisation of the Corporation, or of any provident or other fund in force prior to the appointed day, shall have effect or be payable or claimable from the Reconstruction Bank or from any provident or other fund or from an authority administering such fund, unless the Central Government has, by general or special order, confirmed the appointment, promotion or increment or has directed the continued grant of such allowance or other benefit, as the case may be.

14 of 1947.

(5) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other employee of the Corporation to the Reconstruction Bank shall not entitle such officer or other employee to any compensation under that Act or other law, and no such claim shall be entertained by any court, tribunal or other authority.

(6) Where any person, Chairman, or other director, by whatever name called, or other employee of the Corporation has, before the appointed day, been paid a sum by way of compensation or gratuity, the Reconstruction Bank shall be entitled to claim refund of any sum so paid, if the payment is not confirmed by the Central Government by general or special order.

(7) Where one or more provident funds have been established, or maintained, by the Corporation or any other authority, for the benefit of its officers and other employees, the money debitable to the officers and other employees whose services have become transferred, by, or under this Act to the Reconstruction Bank, shall, out of the monies standing on the appointed day to the credit of such provident fund, stand transferred to, and vested in, the provident fund established by the Reconstruction Bank under section 62.

(8) Where superannuation, welfare and other funds have been established by the Corporation for the benefit of its officers or other employees whose services stand transferred to the Reconstruction Bank, the amount standing to the credit of such fund shall stand transferred, on the appointed day, to the Reconstruction Bank for distribution to the concerned officers or other employees in accordance with their rights and obligations.

Dissolution of the Corporation.

8. (1) As soon as realisation and distribution of the amount have been made under section 6, the person appointed under sub-section (1) of that section shall submit his duly audited accounts to the Central Government and shall apply to that Government for orders as to the dissolution of the Corporation.

(2) The Central Government shall, after hearing such person as it may think fit, and upon perusing the accounts so audited, if satisfied that the amount has been realised and distributed in accordance with the provisions of this Act, make an order that the Corporation is dissolved from the date of the order and the Corporation shall stand dissolved accordingly.

(3) A copy of the order made by the Central Government for the dissolution of the Corporation shall be filed by the Reconstruction Bank with the Registrar of Companies within thirty days from the date of such order, and the Registrar of Companies shall give effect to the said order as if it were an order made by the Court for the dissolution of the Corporation.

(4) The provisions of this section shall have effect, notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force. 1 of 1956.

CHAPTER IV

MANAGEMENT OF THE RECONSTRUCTION BANK

Management.

9. (1) The general superintendence, direction and management of the affairs and business of the Reconstruction Bank shall vest in a Board of directors which may exercise all powers and do all acts and things which may be exercised or done by the Reconstruction Bank.

(2) Save as otherwise provided in the regulations made under this Act, the Chairman shall also have powers of general superintendence, direction and management of the affairs and business of the Reconstruction Bank and may also exercise all powers and do all acts and things which may be exercised or done by the Reconstruction Bank.

(3) Subject to the provisions of this Act, the Board, in discharging its functions, shall act on business principles with due regard to public interest.

(4) In the discharge of its functions under this Act, the Reconstruction Bank shall be guided by such directions in matters of policy involving public interest as the Central Government may give to it in writing, and if any dispute arises as to whether a question is or is not a question of such policy, the dispute shall be decided by the Central Government whose decision thereon shall be final.

Board of directors.

10. (1) The Board shall consist of the following, namely:—

(*a*) a Chairman, to be appointed by the Central Government, who shall function both as the Chairman and as the managing director;

(*b*) a Deputy Governor of the Reserve Bank, to be nominated by that Bank;

(*c*) a director, to be nominated by the Development Bank;

(*d*) not more than fifteen directors to be nominated by the Central Government, of whom—

(*i*) three shall be officials of the Central Government,

(*ii*) not more than three shall be from the public financial institutions,

(*iii*) not more than five shall be from the State Bank, nationalised banks and the State Financial Corporations,

(*iv*) not more than four shall be from among persons who have, in the opinion of the Central Government, special knowledge of, and professional experience in, science, technology, economics, industry, industrial co-operatives, law, industrial finance, investment, accountancy, marketing or any other matter, the special knowledge of, or professional experience in, which would, in the opinion of the Central Government, be useful to the Reconstruction Bank.

(2) A director nominated under sub-section (1) shall hold office during the pleasure of the authority nominating him.

Disqualifications of membership of the Board.

11. No person shall be qualified to be a member of the Board if—

(*a*) he has been removed or dismissed from service of—

(*i*) Government, or

(*ii*) Reserve Bank, State Bank or any other bank, or

(*iii*) any public financial institution or State financial corporation, or

(*iv*) any other corporation owned or controlled by Government,

on a charge of corruption or bribery; or

(*b*) he is, or at any time has been, adjudicated an insolvent or has suspended payment of his debts or has compounded with his creditors; or

(*c*) he is a lunatic and stands so declared by a competent court; or

(*d*) he is or has been convicted of any offence, which, in the opinion of the Central Government, involves moral turpitude.

Term of office, salaries and allowances of Chairman.

12. (*1*) The Chairman shall hold office for such term not exceeding five years as the Central Government may specify in this behalf and any person so appointed shall be eligible for re-appointment for a like term.

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) the Central Government shall have the right to terminate the term of office of the Chairman at any time before the expiry of the term specified under sub-section (*1*) by giving him notice of not less than three months in writing or three months' salary and allowances in lieu of such notice; and the Chairman shall also have the right to relinquish his office at any time before the expiry of the term specified under sub-section (*1*) by giving, to the Central Government notice of not less than three months in writing;

(*b*) the Central Government may, at any time, remove the Chairman from office:

Provided that no person shall be removed from his office under this clause, unless he has been given a reasonable opportunity of showing cause against his removal.

(*3*) Where any vacancy occurs in the office of the Chairman, the Central Government shall appoint a suitable person to discharge the functions of the Chairman.

(*4*) When the Chairman is unable to discharge his functions owing to absence, illness or any other cause, the Central Government may appoint a suitable person to function as the Chairman until the day on which the Chairman resumes the charge of his functions.

(*5*) The Chairman shall be a whole-time officer of the Reconstruction Bank and shall receive such salaries, allowances and other benefits, and shall be subject to such other terms and conditions, as may be determined by the Central Government:

Provided that the Board may, if it is of opinion, that it is necessary in the public interest so to do, permit the Chairman to undertake, at the request of the Central Government or the Reserve Bank, such part-time honorary work as is not likely to interfere with his duties as Chairman,

Disclosure of interest.

13. No member of the Board shall have an interest, direct or indirect, in any business, industry or concern to which any assistance has been given or is to be given by the Reconstruction Bank under this Act and if any such member acquires such interest at any time during the continuance of such assistance, he shall immediately disclose it to the Board and shall either resign his membership of the Board or dispose of his interest in such manner and within such time as the Board may direct.

Meetings of the Board.

14. (*1*) The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided for in the regulations.

(*2*) If, for any reason, the Chairman is unable to attend any meeting of the Board, any other director nominated by the Chairman in this behalf, and in the absence of such nomination, any director elected by the directors present, from amongst themselves, shall preside at the meeting.

(*3*) All questions which come up before any meeting of the Board shall be decided by a majority of votes of the directors present and voting, and in the event of an equality of votes, the Chairman, or, in his absence, the person presiding, shall have a second or casting vote.

(*4*) Save as otherwise provided under sub-section (*3*), every director of the Board shall have one vote.

Executive Committee and other committees.

15. (*1*) The Board may constitute an Executive Committee consisting of such number of directors as may be provided for in the regulations.

(*2*) The Executive Committee shall discharge such functions as may be provided for in the regulations, or, as may be delegated to it, by the Board.

(*3*) The Board may constitute such other committees, whether consisting only of directors or only of other persons or partly of directors and partly of other persons, for such purpose or purposes, as it may think fit.

(*4*) The Executive Committee or any other committee constituted under this section shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be provided for in the regulations.

Existence of vacancy in, or defect in the constitution of, the Board or defect or disqualification of a member not to invalidate the proceedings of the Board.

16. (*1*) No act or proceeding of the Board or of any Executive or other committee constituted by it shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the constitution of, such Board, or committee, as the case may be.

(*2*) All acts done by a person acting in good faith as a member of the Board or of any committee constituted by it shall be valid, notwithstanding that it may afterwards be discovered that his appointment was invalid by reason of any defect or disqualification or had terminated by virtue of any provision of this Act or any other law for the time being in force:

Provided that nothing in this section shall be deemed to give validity to any act of a member of the Board or of any committee after his appointment has been shown to the Reconstruction Bank to be invalid or to have terminated.

17. The directors and members of the committee shall be paid such fees and allowances as may be provided for in the regulations for attending the meetings of the Board or of any committee constituted in pursuance of this Act or for attending to any other work of the Reconstruction Bank:

Fees and allowances of directors and members of committees.

Provided that no fees shall be payable to the Chairman or to any other director or member who is an official of the Government, or, to a Deputy Governor of the Reserve Bank or to any official of the Development Bank or Reconstruction Bank.

CHAPTER V

OBJECTS OF, AND BUSINESS TO BE TRANSACTED BY, THE RECONSTRUCTION BANK

18. (*1*) The Reconstruction Bank shall function as the principal credit and reconstruction agency for industrial revival by undertaking modernisation, expansion, re-organisation, diversification or rationalisation of industries, and by co-ordinating similar work of other institutions engaged therein, and shall assist and promote industrial development, reconstruction and revival, and undertake rehabilitation of industrial concerns, by providing or procuring assistance and operating schemes for the same, and may, for attaining the said objects, carry on and transact all or any of the following businesses, namely:—

Objects and business of the Reconstruction Bank.

(*a*) granting loans and advances (including working capital) to any industrial concern or subscribing to or purchasing or underwriting the issue of stocks, shares, bonds or debentures of any industrial concern or converting the dues in respect of such loans or debentures into the shares of any industrial concern;

(*b*) guaranteeing, counter-guaranteeing or providing indemnity, as the case may be, in respect of—

(*i*) loans raised by an industrial concern from any scheduled bank or State co-operative bank or any public financial institution or any other prescribed institution or agency in, or outside, India;

(*ii*) deferred payments due from an industrial concern;

(*iii*) the performance obligations of any contract undertaken by an industrial concern, including repayment of any advance obtained by such industrial concern in connection with such contract;

(*c*) subscribing to or purchasing or underwriting the issue of stocks, shares, bonds or debentures of any institution which may be notified by the Central Government in this behalf;

(*d*) providing credit to any State level agency or other prescribed institution or agency for grant of loans and advances to industrial concerns;

(*e*) providing or obtaining credit from other public financial institutions, scheduled banks and State co-operative banks, for grant of loans and advances to or to furnish guarantees on behalf of the industrial concern;

(*f*) providing infrastructural facilities and raw materials;

(*g*) providing machinery and other equipment on lease or hire-purchase basis;

(*h*) providing consultancy and merchant banking services in and outside India relating to reconstruction and development of any industrial concern or industry in general;

(*i*) accepting or discounting of bills of exchange and promissory notes, made, drawn, accepted or endorsed by any industrial concern or by any person selling capital goods manufactured by one industrial concern to another industrial concern;

(*j*) promoting, owning, taking over, managing industrial concerns and acting as authorised person, where so appointed by the Central Government, to manage an industrial concern, including ancillaries;

(*k*) transferring or acquiring for consideration any instrument relating to loans and advances;

(*l*) providing technical, legal, administrative and marketing assistance, promoting, assisting and financing mergers, amalgamation or reconstruction of an industrial or business concern;

(*m*) providing managerial assistance to industrial concerns including nationalised undertakings by deputing officers from its own cadre or a separate management pool constituted for the purpose;

(*n*) undertaking research and surveys for evaluating or dealing with marketing or investments, carrying on techno-economic studies in connection with reconstruction and development of industry and establishment of institutes for such purposes including training of personnel;

(*o*) granting, opening, issuing, confirming or endorsing letters of credit and negotiating or collecting bills and other documents drawn thereunder;

(*p*) forming, or controlling, of subsidiaries for carrying out any of its functions or to carry on such other activities conducive to its business;

(*q*) acting as an agent of—

(*i*) Central Government or State Government;

(*ii*) Reserve Bank, State Bank, scheduled bank, State co-operative bank, public financial institutions, State Financial Corporations;

(*iii*) such other Government or person as the Central Government may authorise;

and to appoint one or more of those institutions, or agencies, or any other prescribed person, as its agent;

(*r*) performing functions entrusted to or required of it by Central Government under this Act or any other law;

(*s*) doing any kind of business or assignment in or outside the country which the Central Government may authorise;

(*t*) collecting information from all concerned agencies relating to industrial sickness and industrial development;

(*u*) preparing guidelines to assist the Central Government in formulating policy framework to reconstruct, revive or rehabilitate industrial concerns or any industry;

(*v*) granting loans for housing and other purposes to the officers and other employees (including persons employed on contract) of the Reconstruction Bank;

(*w*) generally doing such other acts and things as may be incidental to or consequential upon the exercise of its powers or of its duties under this Act or any other law, including sale or transfer of any of its assets.

(*2*) The Reconstruction Bank may receive in consideration of any of the services mentioned in sub-section (*1*), such commission, brokerage, interest, rent, remuneration or fees, as may be agreed upon.

(*3*) The Reconstruction Bank shall not grant any loan or advance or other assistance on the security of its own bonds or debentures.

Prohibited business.

19. (*1*) The Reconstruction Bank shall not enter into any kind of business with any industrial concern, of which any of the directors of the Reconstruction Bank is a proprietor, partner, director, manager, agent, employee or guarantor, or in which one or more directors of the Reconstruction Bank together hold substantial interest:

Provided that this sub-section shall not apply to any industrial concern if any director of the Reconstruction Bank—

(*i*) is nominated as a director of the Board of such concern by Government, or a Government company, or by the Reconstruction Bank or by a corporation established by any other law, or

(*ii*) is elected as a director on the Board of such industrial concern by virtue of shares held in that industrial concern by Government, or a Government company, or by the Reconstruction Bank or by a corporation established by any other law,

by reason only of such nomination or election, as the case may be.

Explanation I.—"Government company" has the meaning assigned to it in section 617 of the Companies Act, 1956.

1 of 1956.

Explanation I.—"Government company" has the meaning assigned to concern, means the beneficial interest held by one or more of the directors of the Reconstruction Bank or by any relative [as defined in clause (*41*)

1 of 1956. of section 2 of the Companies Act, 1956] of such director whether singly or taken together, in the shares of the industrial concern, the aggregate amount paid-up on which either exceeds five lakhs of rupees or five per cent. of the paid-up share capital of the industrial concern, whichever is the lesser.

(*2*) The provisions of sub-section (*1*)—

(*i*) shall not apply to any industrial concern as specified therein if the Reconstruction Bank is satisfied that it is necessary in the public interest to enter into business with that concern, and entering into any kind of business with such industrial concern shall be in accordance with and subject to such conditions and limitations as may be provided for in the regulations;

(*ii*) shall apply only so long as the conditions precedent to such disability as set out in the said sub-section continue.

Loans by Central Government.

20. The Central Government may, after due appropriation made by Parliament by law in this behalf, advance to the Reconstruction Bank interest free loans or loans with interest on such terms and conditions, as may be agreed upon.

Borrowing and acceptance of deposits by the Reconstruction Bank.

21. (*1*) The Reconstruction Bank may, for the purpose of carrying out its functions under this Act—

(*a*) issue and sell bonds and debentures with or without guarantee of the Central Government;

(*b*) borrow money from the Reserve Bank—

(*i*) repayable on demand or on the expiry of fixed periods, not exceeding ninety days from the date on which the money is so borrowed against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India;

(*ii*) against bills of exchange or promissory notes arising out of *bona fide* commercial or trade transactions, bearing two or more good signatures and maturing within five years from the date of borrowing;

(*iii*) for any other purpose approved by the Central Government in accordance with the provisions of the Reserve Bank of India Act, 1934; 2 of 1934.

(*c*) borrow money from such other authority, organisation, institution or trust in India as may be generally or specially approved by the Central Government;

(*d*) accept deposits repayable after the expiry of a period which shall not be less than twelve months from the date of making of the deposit on such terms as may be generally or specially approved by the Reserve Bank.

(*2*) The Central Government may, on a request being made to it by the Reconstruction Bank, guarantee the bonds and debentures issued by that Bank as to the repayment of principal and the payment of interest at such rate as may be fixed by that Government.

(*3*) Notwithstanding anything contained in any other law for the time being in force, the bonds and debentures issued or sold by the Reconstruction Bank shall be approved securities for the purposes of the Indian Trusts Act, 1882, the Insurance Act, 1938 and the Banking Regulation Act, 1949. 2 of 1882. 4 of 1938. 10 of 1949.

Power to transfer rights.

22. The rights and interests of the Reconstruction Bank (including any other rights incidental thereto) in relation to any loan or advance granted, or any amount recoverable, by it may be transferred by the Reconstruction Bank, either in whole or in part, by the execution or issue of any instrument, or by the transfer of any instrument by endorsement, or in any other manner in which the rights and interests in relation to such loan or advance may be lawfully transferred, and the Reconstruction Bank may, notwithstanding such transfer, act as the trustee of the transferee.

46 of 1973.

23. (*1*) Notwithstanding anything contained in the Foreign Exchange Regulation Act, 1973, or in any other enactment for the time being in force relating to foreign exchange, the Reconstruction Bank may, for the purpose of granting loans and advances under this Act, borrow, with the previous consent of the Central Government, foreign currency from any bank or financial institution in any foreign country or as otherwise prescribed. Loans in foreign currency.

(*2*) The Central Government may, where necessary, guarantee any loan taken by the Reconstruction Bank under sub-section (*1*) or any part thereof, as to the repayment of principal and payment of interest and other incidental charges.

(*3*) All loans and advances granted by the Reconstruction Bank out of foreign currency borrowed under sub-section (*1*) shall be expressed in terms of foreign currency as equivalent of Indian currency, calculated in accordance with the rate of exchange prevailing in India at the time of grant thereof, and the amount due thereunder shall be repayable in equivalent Indian currency, calculated in accordance with the rate of exchange prevailing in India at the time of repayment of such loan or advance.

(*4*) Any loss or profit in connection with any borrowing of foreign currency under sub-section (*1*), for the purpose of granting loans and advances under this Act, or with its repayment to the concerned foreign lending agency, on account of any fluctuations in the rate of exchange accruing—

(*a*) during the period within which the loan or advance is repayable by the industrial concern or the period of actual repayment thereof by the concern, whichever is longer, shall be reimbursed by, or paid to, as the case may be, the recipients of such loans and advances;

(*b*) after the expiry of the period specified in clause (*a*),—

(*i*) shall be borne by the Reconstruction Bank in respect of normal market fluctuations in foreign exchange;

(*ii*) shall be reimbursed by, or paid to, as the case may be, the Central Government in respect of fluctuations other than the normal market fluctuations in foreign exchange.

Explanation.—If any question arises as to whether any fluctuation as aforesaid is a normal fluctuation or not, the same shall be decided by the Central Government whose decision thereon shall be final.

24. The Reconstruction Bank may receive gifts, grants, donations or benefactions from Government or any other source. Grants, donations, etc., to the Reconstruction Bank.

CHAPTER VI

RECONSTRUCTION ASSISTANCE FUND

25. With effect from the appointed day, the Reconstruction Bank shall establish a special fund to be called the Reconstruction Assistance Fund. Reconstruction Assistance Fund.

Credits to the Reconstruction Assistance Fund.

26. To the Reconstruction Assistance Fund shall be credited—

(*a*) all amounts received for the purposes of that Fund by way of loans, gifts, grants, donations or benefactions from Government or any other source;

(*b*) repayments or recoveries in respect of loans, advances or other facilities granted from the Fund;

(*c*) income or profits from investments made from the Fund; and

(*d*) income accruing or arising to the Fund by way of interest or otherwise, on account of the application of the Fund in accordance with the provisions of section 27.

Utilisation of Reconstruction Assistance Fund.

27. (*1*) Where the Reconstruction Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (*3*) and (*4*), disburse or spend from the Reconstruction Assistance Fund any amount on account, or in consequence, of the grant of any loan or advance or on account, or in consequence, of entering into any arrangement, under section 18:

Provided that before granting any such loan or advance to an industrial concern or entering into any such arrangement with or in relation to an industrial concern the Reconstruction Bank shall obtain the prior approval of the Central Government.

(*2*) Where the Reconstruction Bank considers it necessary or desirable so to do, it may, subject to the provisions of sub-sections (*3*) and (*4*), disburse or spend from the Reconstruction Assistance Fund any amount for one or more of the purposes specified in section 18.

(*3*) Before seeking the approval of the Central Government under sub-section (*1*), the Reconstruction Bank shall satisfy itself that the banking or other financial institutions or other agencies are not likely to grant such loan or advance to the industrial concern or to enter into any such arrangement with or in relation to the industrial concern in the ordinary course of business.

(*4*) The Central Government shall, before giving its approval, satisfy itself that such loan, advance or arrangement is necessary as a matter of priority in the interests of industrial reconstruction, revival, rehabilitation or development.

(*5*) For the removal of doubts, it is hereby declared that nothing contained in this section shall be deemed to preclude the Reconstruction Bank from granting any loan or advance or from entering into any arrangement under clause (*a*) or under clause (*b*) of sub-section (*1*) of section 18, without the approval of the Central Government, if no amount in respect thereof is to be disbursed or spent from the Reconstruction Assistance Fund.

Debits to Reconstruction Assistance Fund.

28. (1) To the Reconstruction Assistance Fund shall be debited—

(a) such amounts as may from time to time be disbursed or spent under section 27;

(b) such amounts as may be required for discharging the liabilities in respect of loans received for the purposes of that Fund;

(c) any loss arising on account of investment made out of that Fund; and

(d) such expenditure arising out of, or in connection with, the administration and application of the Fund as may be determined by the Board.

(2) No amount shall be debited to the Reconstruction Assistance Fund except as provided for in sub-section (1).

Accounts and audit of Reconstruction Assistance Fund.

29. (1) The balance-sheet and accounts of the Reconstruction Assistance Fund shall be prepared in such form and manner as may be provided for in the regulations.

(2) The Board shall cause the books and accounts of the Fund to be closed and balanced as on the 30th day of June each year.

(3) The Reconstruction Assistance Fund shall be audited by one or more auditors appointed by the Central Government under section 34, who shall make a separate report thereon.

(4) The provisions of sub-sections (2), (3), (4) and (6) of section 34 shall, so far as may be, apply in relation to the audit of the Reconstruction Assistance Fund, as they apply to the audit of the accounts of the Reconstruction Bank.

(5) The Reconstruction Bank shall furnish to the Central Government, within four months from the date on which the accounts of the Fund are closed and balanced, a copy of the balance-sheet and accounts together with a copy of the auditors' report and a copy of the report on the operation of the Fund during the relevant year and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

Liquidation of Reconstruction Assistance Fund.

30. The Reconstruction Assistance Fund shall not be closed or wound up save by the order of the Central Government and in such manner as that Government may direct.

CHAPTER VII

GENERAL FUND, ACCOUNTS AND AUDIT

General Fund.

31. All receipts of the Reconstruction Bank other than those which are to be credited to the Reconstruction Assistance Fund under this Act shall be credited to a Fund to be called the General Fund and all payments by the Reconstruction Bank, other than those which are to be debited to the Reconstruction Assistance Fund, shall be made out of the General Fund.

Preparation of accounts and balance-sheet

32 (1) The balance-sheet and accounts of the Reconstruction Bank shall be prepared in such form and manner as may be provided for in the regulations.

(2) The Board shall cause the books and accounts of the Reconstruction Bank to be closed and balanced as on the 30th day of June each year.

Disposal of profits accruing to General Fund.

33. (1) The Reconstruction Bank may establish a reserve fund to which may be transferred such sums as that Bank may deem fit out of the annual profits accruing to the General Fund.

(2) After making provision for bad and doubtful debts, depreciation of assets and for all other matters for which provision is necessary or expedient or which is usually provided for by bankers and for the reserve fund referred to in sub-section (1), the Reconstruction Bank shall transfer the balance of the net profits to the Central Government.

Audit.

34. (1) The accounts of the Reconstruction Bank shall be audited by auditors duly qualified to act as auditors under sub-section (1) of section 226 of the Companies Act, 1956 who shall be appointed by the Central Government for such term and on such remuneration as the Central Government may fix. 1 of 1956.

(2) The auditors shall be supplied with a copy of the annual balance-sheet of the Reconstruction Bank and it shall be their duty to examine it together with the accounts and vouchers relating thereto and they shall have a list delivered to them of all books kept by the Reconstruction Bank and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Reconstruction Bank.

(3) The auditors may, in relation to such accounts, examine any director or any officer or other employee of the Reconstruction Bank and shall be entitled to require from the Board or officers or other employees of the Reconstruction Bank such information and explanation as they may think necessary for the performance of their duties.

(4) The auditors shall make a report to the Reconstruction Bank upon the annual balance-sheet and accounts examined by them and in every such report they shall state whether in their opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Reconstruction Bank and in case they had called for any explanation or information from the Board or any officer or other employee of the Reconstruction Bank whether it has been given and whether it is satisfactory.

(5) The Reconstruction Bank shall furnish to the Central Government within four months from the date on which its accounts are closed and balanced, a copy of its balance-sheet and accounts together with a copy of the auditors' report and a report of the working of the Reconstruction Bank during the relevant year, and the Central Government shall, as soon as may be after they are received by it, cause the same to be laid before each House of Parliament.

(6) Without prejudice to anything contained in the preceding sub-sections, the Central Government may at any time appoint the Comptroller and Auditor-General of India to examine and report upon the accounts of the Reconstruction Bank and any expenditure incurred by him in connection with such examination and report shall be payable by the Reconstruction Bank to the Comptroller and Auditor-General of India.

Saving.

35. Save as otherwise provided in sub-section (4) of section 29, nothing contained in this Chapter shall apply to the Reconstruction Assistance Fund.

CHAPTER VIII

SPECIAL POWERS OF THE RECONSTRUCTION BANK

Power to impose conditions for assistance.

36. (1) In entering into any arrangement under section 18 with an industrial concern, the Reconstruction Bank may impose such conditions as it may think necessary or expedient for protecting the interests of the Reconstruction Bank, and securing that the assistance granted by it is put to the best use by the industrial concern.

(2) Where any arrangement entered into by the Reconstruction Bank with an industrial concern provides for the appointment by the Reconstruction Bank of one or more directors of such industrial concern, such provision and any appointment of directors made in pursuance thereof shall be valid and effective notwithstanding anything to the contrary contained in the Companies Act, 1956, or in any other law for the time being in force or in the memorandum, articles of association or any other instrument relating to the industrial concern, and any provision regarding share qualification, age limit, number of directorships, removal from office of directors and such like conditions contained in any such law or instrument aforesaid, shall not apply to any director appointed by the Reconstruction Bank in pursuance of the arrangement as aforesaid.

1 of 1956.

(3) Any director appointed in pursuance of sub-section (2) shall—

(a) hold office during the pleasure of the Reconstruction Bank and may be removed or substituted by any person by order in writing by the Reconstruction Bank;

(b) not incur any obligation or liability by reason only of his being a director or for anything done or omitted to be done in good faith in the discharge of his duties as a director or anything in relation thereto;

(c) not be liable to retirement by rotation and shall not be taken into account for computing the number of directors liable to such retirement.

Assistance to industrial concern when to operate as a charge on the property offered as security.

37. (1) Where any person or industrial concern seeks any assistance from the Reconstruction Bank on the security of any immovable property belonging to him or to the industrial concern or on the security of the property of some other person whose property is offered as a collateral security for such assistance, such person or industrial concern or, as the case may be, such other person may execute a written declaration in the form specified in the First Schedule stating therein the particulars of the immovable property which is proposed to be offered as security or, as the case may be, collateral security, for such assistance and agreeing that the dues relating to the assistance, if granted, shall be a charge on such property, and, if, on receipt of such declaration, the Reconstruction Bank grants any assistance to the person or the industrial concern aforesaid, the dues relating to such assistance shall, without prejudice to the rights of any other creditor holding any prior charge or mortgage in

respect of the property so specified, be, by virtue of the provisions of this section, a charge on the property specified in the declaration aforesaid.

(2) Where any further immovable property is offered as security for the assistance referred to in sub-section (1), a fresh declaration shall be executed, as far as may be, in the form specified in the First Schedule.

(3) Every declaration referred to in sub-section (1) or sub-section (2) shall be deemed to be a document registrable as an agreement under the provisions of the Registration Act, 1908, and no such declaration shall have effect unless it is so registered. 16 of 1908.

Power to call for repayment before agreed period.

38. Notwithstanding anything contained in any agreement to the contrary, the Reconstruction Bank may, by notice in writing, require any industrial concern to which it has granted any assistance to discharge forthwith in full its entire dues and also discharge its other liabilities to the Reconstruction Bank—

(a) if it appears to the Board that false or misleading information in any material particular was given in the application for the assistance; or

(b) if the industrial concern has failed to comply with the terms of its agreement with the Reconstruction Bank in the matter of assistance; or

(c) if there is a reasonable apprehension that the industrial concern is unable to pay its debts or that proceedings for liquidation has been, or may be, commenced in respect thereof; or

(d) if the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank as a security for assistance is not insured and kept insured by the industrial concern to the satisfaction of the Reconstruction Bank or if such property depreciates in value to such an extent that, in the opinion of the Board, further security to the satisfaction of the Board should be given and such security is not given; or

(e) if, without the permission of the Board, any machinery, plant or other equipment, whether forming part of the security or otherwise, is removed from the premises of the undertaking or the industrial concern, as the case may be, without being replaced; or

(f) if for any other reason, it is necessary so to do to protect the interests of the Reconstruction Bank.

Rights of Reconstruction Bank in case of default.

39. (1) Where an assisted industrial concern, which is under a liability to the Reconstruction Bank under any agreement with the Bank, makes any default in the payment of any dues, or in meeting its obligation in relation to any other assistance given by the Reconstruction Bank or otherwise fails to comply with the terms of the agreement with that Bank, the Reconstruction Bank shall have the right to take over the management, or possession, or both, of the industrial concern, as well as the right to transfer by way of lease or sale of the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank for the purpose of realising its dues or for the revival of the industrial concern

(2) Any transfer of property made by the Reconstruction Bank in exercise of the powers conferred on it by sub-section (1) shall vest in the transferee the rights in, or in relation to, the property transferred as if the transfer had been made by the owner of such property.

(3) The Reconstruction Bank shall have the same rights and powers with respect to goods manufactured or produced wholly or partly from goods forming part of the security held by it, as it had with respect to the original goods.

(4) Where any action has been taken against an industrial concern under the provisions of sub-section (1), all costs, charges and expenses which, in the opinion of the Reconstruction Bank, have been properly incurred by it as incidental thereto, shall be recoverable from the industrial concern and the money which is received by the Reconstruction Bank shall, in the absence of any contract to the contrary, be held by it in trust, to be applied, firstly, in payment of such costs, charges and expenses, and, secondly, in discharge of the dues of the Reconstruction Bank and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(5) Where the Reconstruction Bank takes over the management or possession of any industrial concern under sub-section (1), such industrial concern may sue, and be sued, in its name.

Enforcement of claims by the Reconstruction Bank.

40. (1) (*a*) Where an assisted industrial concern makes any default in the payment of any dues to, or in meeting its obligation in relation to any other assistance given by the Reconstruction Bank or otherwise fails to comply with the terms of agreement with that Bank, or

(*b*) where the Reconstruction Bank makes an order under section 38 requiring the assisted industrial concern to make immediate repayment of any assistance granted to it and the industrial concern fails to make such repayment,

then, without prejudice to the provisions of section 39 of this Act and of section 69 of the Transfer of Property Act, 1882, any officer of the Reconstruction Bank generally or specially authorised by the Board in this behalf, may apply to the concerned High Court for one or more of the following reliefs, namely:—

4 of 1882.

(*i*) for an order for the sale or lease of the property assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank as security for the assistance granted to it, or for the sale or lease of any other property, of the industrial concern; or

(*ii*) for transferring the management of the industrial concern to the Reconstruction Bank or to its nominee; or

(*iii*) for an *ad interim* injunction restraining the industrial concern from transferring or removing its machinery, plant or equipment from the premises of the industrial concern without the previous permission of the Board where such transfer or removal is apprehended; or

(*iv*) for an order for the appointment of a receiver where there is apprehension of the machinery, equipment or any other property of substantial value which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank, being removed from the premises of the industrial concern or of being transferred without the previous permission of the Reconstruction Bank.

(2) An application under sub-section (*1*) shall state the nature and extent of the liability of the industrial concern to the Reconstruction Bank, the ground on which it is made and such other particulars as may be necessary for obtaining the relief prayed for.

(3) Where an application is for any relief mentioned in sub-clause (*i*) of sub-section (*1*), the High Court may,—

(*a*) by an order, authorise the Reconstruction Bank to grant lease of such property to such person and on such terms and conditions as may be specified in the said order; or

(*b*) pass an order calling upon the person whose property has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank to show cause, on a date to be specified in the notice, as to why an order for the sale of such property or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section, shall not be made; or

(*c*) pass an *ad interim* order attaching any property of the industrial concern which has not been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank, or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section, and pass an order calling upon the industrial concern to show cause on a date to be specified in the notice as to why such order of *ad interim* attachment shall not be made absolute.

(4) Where an application is for the relief mentioned in sub-clause (*ii*) of sub-section (*1*), the High Court shall issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why the management of the industrial concern shall not be transferred to the Reconstruction Bank or to its nominee.

(5) Where an application is for the relief mentioned in sub-clause (*iii*) of sub-section (*1*), the High Court shall grant an *ad interim* injunction restraining the industrial concern from transferring or removing its machinery or other equipment and issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why such *ad interim* injunction shall not be made absolute.

(6) Where an application is for the relief mentioned in sub-clause (*iv*) of sub-section (*1*), the High Court shall pass an *ad interim* order appointing a receiver in respect of the property assigned, charged, hypothecated, mortgaged or pledged and shall issue a notice calling upon the industrial concern to show cause, on a date to be specified in the notice, as to why the *ad interim* order appointing the receiver shall not be made absolute.

(7) If no cause is shown, on or before the date specified in the notice issued by the High Court, the Court shall forthwith—

(*a*) make an order for the sale of the property which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section;

(*b*) direct the sale of the attached property or the transfer of the management of the industrial concern to the Reconstruction Bank or to its nominee;

and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction Bank and the residue of such proceeds, if any, shall be made over to the person entitled thereto in accordance with his rights and interests;

(*c*) make the *ad interim* injunction made under sub-section (*5*), and the *ad interim* order of appointment of the receiver made under sub-section (*6*), as the case may be, absolute.

(8) If cause is shown, the High Court shall proceed to investigate the claim of the Reconstruction Bank and the provisions of the Code of Civil Procedure, 1908, shall, as far as practicable, apply to such proceedings.

5 of 1908.

(9) On an investigation made under sub-section (*8*), the High Court may pass an order,—

(*a*) for the sale of the property which has been assigned, charged, hypothecated, mortgaged or pledged to the Reconstruction Bank or so much of such property, as would, on being sold, realise, in its estimation, an amount equivalent in value to the outstanding dues of the assisted industrial concern to the Reconstruction Bank, together with costs of the proceedings taken under this section; or

(*b*) confirming the order of attachment and directing the sale of the attached property, or the transfer of the management of the assisted industrial concern to the Reconstruction Bank or to its nominee; or

(c) vary the order of attachment so as to release a portion of the property from attachment and directing the sale of the remainder of the attached property;

and shall apply the proceeds of such sale for the discharge of the dues to the Reconstruction Bank and the residue of such proceeds, if any, shall be made over to the person entitled thereto, in accordance with his rights and interests;

(*d*) releasing the property from attachment, if it is satisfied, that it is not necessary in the interests of the Reconstruction Bank; or

(*e*) confirming or vacating the injunction or the order for the appointment of the receiver:

Provided that when making any order under clause (*d*), the High Court may make such further orders as it thinks necessary to protect the interest of the Reconstruction Bank, and may apportion the costs of the proceedings in such manner as it thinks fit:

Provided further that unless the Reconstruction Bank intimates to the High Court that it will not prefer an appeal against any order releasing any property from any attachment, such order shall not be given effect to until the expiry of the period fixed under sub-section (*12*) within which an appeal may be preferred, or if an appeal is preferred, unless the court empowered to hear appeals from the decisions of the said High Court otherwise directs until the appeal is disposed of.

(*10*) An order of attachment or sale of property under this section shall be carried into effect as far as practicable in the manner provided in the Code of Civil Procedure, 1908, for the attachment or sale of property in the execution of a decree as if the Reconstruction Bank were the decree-holder. 5 of 1908.

(*11*) An order under this section transferring the management of any industrial concern to the Reconstruction Bank or to its nominee shall be carried into effect, as far as may be practicable, in the manner provided in the Code of Civil Procedure, 1908, for the possession of immovable property or the delivery of movable property in the execution of a decree, as if the Reconstruction Bank or its nominee were the decree-holder. 5 of 1908.

(*12*) Any party aggrieved by an order under sub-section (*3*), sub-section (*7*) or sub-section (*9*) may, within thirty days from the date of the order prefer an appeal to the court empowered to hear appeals from the decisions of the High Court which passed the order and the appellate court may, after hearing the parties, pass such orders as it thinks proper.

(*13*) Nothing in this section shall be construed where proceedings for liquidation in respect of an industrial concern have commenced before an application is made under sub-section (*1*), as giving to the Reconstruction Bank any preference over the other creditors of the industrial concern not conferred on it by any other law.

Power of of Reconstruction Bank relating to property offered as primary or collateral security.

41. (*1*) Where a person has offered any property as security, whether primary or collateral, for any assistance given by the Reconstruction Bank to any industrial concern, or to such person, and a default has been committed by the industrial concern or by such person in the payment of any dues of the Reconstruction Bank or in meeting any obligation in relation to the assistance given by the Reconstruction Bank to the industrial concern aforesaid, the Reconstruction Bank shall have the right to take over the management, or possession, or both, of the property so offered as security, and shall have the right to transfer by lease or sale the property aforesaid for the purpose of realising its dues.

(2) Any transfer of property made by the Reconstruction Bank, in exercise of the powers conferred on it by sub-section (*1*), shall vest in the transferee, the rights in or in relation to the property transferred as if the transfer had been made by the owner of such property.

(3) Where any action has been taken under the provisions of sub-section (*1*), costs, charges and expenses which, in the opinion of the Reconstruction Bank, have been properly incurred by it as incidental thereto, shall be recoverable out of the money received by the Reconstruction Bank by the sale or lease of the property referred to in sub-section (*1*) and shall, in the absence of any contract to the contrary, be held by it in trust, to be applied, firstly, in payment of such costs, charges and expenses and, secondly, in the discharge of the dues of the Reconstruction Bank and the residue of the money so received shall be paid to the person entitled thereto in accordance with his rights and interests.

(4) The Reconstruction Bank may, instead of exercising the powers conferred on it by sub-section (*1*), apply for the sale or lease of the property referred to in sub-section (*1*) or for any other relief, to the High Court within the local limits of whose jurisdiction the property aforesaid is situated, and, thereupon, the provisions of section 40 shall, without prejudice to the provisions of section 69 of the Transfer of Property Act, 1882, apply thereto as if the property aforesaid were the property referred to in section 40, and powers shall be exercisable by the High Court accordingly.

4 of 1882.

Power of Reconstruction Bank to appoint directors or administrators of an industrial concern when management thereof is taken over.

42. (*1*) When the management of an industrial concern is taken over by the Reconstruction Bank, that Bank may, by order, notified in the Official Gazette, appoint as many persons as it thinks fit,—

(*a*) in any case in which the industrial concern is a company, as defined in the Companies Act, 1956, to be the directors of that industrial concern; or

1 of 1956.

(*b*) in any other case, to be the administrator of that industrial concern.

(2) The power to appoint directors or administrators under this section includes the power to appoint any individual, firm or body corporate to be the manager of the industrial concern on such terms and conditions as the Reconstruction Bank may think fit.

(3) For the removal of doubts, it is hereby declared that the power to appoint directors, administrators or managers includes the power to remove or replace the person so appointed.

(4) Nothing in the Companies Act, 1956 or in any other law for the time being in force or in any instrument relating to the industrial concern shall, in so far as it makes, in relation to a director, any provision for the holding of any share qualification, age limit, restriction on the number of directorships, retirement by rotation or removal from office, apply to any director appointed by the Reconstruction Bank under this section. 1 of 1956.

Effect of notified order under section 42.

43. On the issue of a notified order under section 42—

(a) if the industrial concern is a company as defined in the Companies Act, 1956, all persons holding office as directors of the industrial concern, and in any other case, all persons holding any office having the powers of superintendence, direction and control of the industrial concern, immediately before the issue of the notified order, shall be deemed to have vacated their offices as such; 1 of 1956.

(b) any contract of management between the industrial concern and any director or manager thereof holding office as such immediately before the issue of the notified order shall be deemed to have terminated;

(c) the directors or administrators, appointed under section 42, shall take such steps as may be necessary to take into their custody or under their control, the property, effects and actionable claims to which the industrial concern is, or appears to be, entitled, and all the property and effects of the industrial concern shall be deemed to be in the custody of the directors or administrators, as the case may be, as from the date of the notified order;

(d) the directors appointed under section 42 shall, for all purposes, be the directors of the industrial concern, duly constituted under the Companies Act, 1956, and such directors, or, as the case may be, the administrators, appointed under section 42, shall alone be entitled to exercise all the powers of the directors, or, as the case may be, of the persons exercising powers of superintendence, direction and control of the industrial concern, whether such powers are derived from the said Act or from the memorandum or articles of association of the industrial concern or from any other source whatsoever. 1 of 1956.

Powers and duties of directors and administrators.

44. (1) Subject to the control of the Reconstruction Bank, the directors, or, as the case may be, the administrators appointed under section 42, shall take such steps as may be necessary for the purpose of efficiently managing the business of the industrial concern and shall exercise such powers and have such duties as may be prescribed.

(2) Without prejudice to the generality of the powers vested in them under sub-section (1), the directors, or, as the case may be, the administrators appointed under section 42, may, with the previous approval of the Reconstruction Bank, make an application to a court for the purpose of cancelling or varying any contract or agreement entered into, at any time before the issue of the notified order under section 42, between the industrial concern and any other person, and the court may, if satisfied after due inquiry that such contract or agreement had been entered into in bad faith and is detrimental to the interests of the industrial concern, make an order cancelling or varying (either uncon-

ditionally or subject to such conditions as it may think fit to impose) that contract or agreement and the contract or agreement shall have effect accordingly.

No right to compensation for termination of contract of managing director, etc.

45. (*1*) Notwithstanding anything to the contrary contained in any contract or in any law for the time being in force, no managing or whole-time director or any other director or a manager or any person in charge of management of an industrial concern shall be entitled to any compensation for the loss of office or for the premature termination, under this Act, of any contract of management entered into by him with such concern.

(*2*) Nothing contained in sub-section (*1*) shall affect the right of any such managing or whole-time director, or any other director or manager or any such person in charge of management to recover from the industrial concern, moneys recoverable otherwise than by way of such compensation.

Application of Act 1 of 1956.

46. (*1*) Where the management of an industrial concern, being a company as defined in the Companies Act, 1956, is taken over by the Reconstruction Bank, then, notwithstanding anything contained in the said Act or in the memorandum or articles of association of such concern,—

(*a*) it shall not be lawful for the shareholders of such concern or any other person to nominate or appoint any person to be a director of the concern;

(*b*) no resolution passed at any meeting of the shareholders of such concern shall be given effect to unless approved by the Reconstruction Bank;

(*c*) no proceeding for the winding up of such concern or for the appointment of a receiver in respect thereof shall lie in any court, except with the consent of the Reconstruction Bank.

(*2*) Subject to the provisions contained in sub-section (*1*) and to the other provisions contained in this Act and subject to such other exceptions, restrictions and limitations, if any, as the Central Government may, by notification in the Official Gazette, specify in this behalf, the Companies Act, 1956, shall continue to apply to such concern in the same manner as it applied thereto before the issue of the notified order under section 42.

1 of 1956.

Restriction on filing of suits for dissolution, etc., of an industrial concern not being a company when its management is taken over.

47. Where the management of an industrial concern not being a company as defined in the Companies Act, 1956, is taken over by the Reconstruction Bank, no suit or proceedings for dissolution or for partition shall, in so far as it relates to that industrial concern, lie in any court or before any tribunal or other authority except with the consent of the Reconstruction Bank.

1 of 1956.

Official assignee or receiver not to be appointed without the consent of the Reconstruction Bank.

48. No proceeding for the appointment of any official assignee or receiver in relation to any industrial concern the management of which has been taken over by the Reconstruction Bank shall lie in any court except with the consent of the Reconstruction Bank.

Power of Central Government to grant relief in the case of certain assisted industrial concerns.

49. (*1*) The Central Government may, if it is satisfied on an application made to it by the Reconstruction Bank that it is necessary so to do for the purpose of reconstructing, reviving or rehabilitating any assisted industrial concern, declare by notification in the Official Gazette, that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force (to which such assisted industrial concern is a party, or which may be applicable to such assisted industrial concern) immediately before the issue of such notified order, shall remain suspended or any rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified in the notified order.

(*2*) The notified order made under sub-section (*1*) shall remain in force, in the first instance, for a period of two years, but the duration of such order may be extended from time to time by a further notified order by a period not exceeding two years at a time:

Provided that no such order shall in any case remain in force for more than eight years in the aggregate from the date of issue of the first notified order.

(*3*) Any notified order made under sub-section (*1*) shall have effect, notwithstanding anything to the contrary contained in any other law, agreement or instrument or any decree or order of a court, tribunal, officer or other authority or of any submission, settlement or standing order.

(*4*) Any remedy for the enforcement of any right, privilege, obligation or liability referred to in sub-section (*1*) and suspended or modified by notified order made under that sub-section shall, in accordance with the terms of that notified order, remain suspended or modified, and all proceedings relating thereto pending before any court, tribunal, officer or other authority shall accordingly remain stayed or be continued subject to such adaptations, so, however, that on the notified orders ceasing to have effect—

(*a*) any right, privilege, obligation or liability so remaining suspended or modified shall become revived and enforceable as if the notified order had never been made;

(*b*) any proceeding so remaining stayed shall be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceeding became stayed.

(*5*) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability referred to in sub-section (*1*), the period during which it or the remedy for the enforcement thereof, remained suspended shall be excluded.

(6) During the period of operation of the notified order made under sub-section (1), the Central Government may, if satisfied that it is necessary so to do in the public interest,—

(a) for the reconstruction, revival or rehabilitation of an assisted industrial concern; or

(b) for the proper management of the assisted industrial concern; or

(c) for scaling down the liabilities of the assisted industrial concern, where the financial condition and other circumstances of the assisted industrial concern are such that such scaling down is necessary,

authorise the Reconstruction Bank to prepare a scheme—

(i) for the reconstruction, revival or rehabilitation of the assisted industrial concern; or

(ii) for scaling down the liabilities of the assisted industrial concern; or

(iii) for the amalgamation of the assisted industrial concern with any other industrial concern (referred to in this section as the "transferee industrial concern").

(7) The scheme referred to in sub-section (6) may contain provisions for all or any of the following matters, namely:—

(a) the constitution, name and registered office, the capital, assets, powers, rights, interests, authorities and privileges, the liabilities, duties and obligations of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern;

(b) in the case of amalgamation of the assisted industrial concern, the transfer to the transferee industrial concern of the business, properties, assets and liabilities of the assisted industrial concern on such terms and conditions as may be specified in the scheme;

(c) any change in the Board of Directors, or the appointment of a new Board of Directors, of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern and the authority by whom, the manner in which, and the other terms and conditions on which, such change or appointment shall be made and in the case of appointment of a new Board of Directors or of any director, the period for which such appointment shall be made;

(d) the alteration of the memorandum and articles of association of the assisted industrial concern on its reconstruction, or, as the case may be, of the transferee industrial concern for the purpose of altering the capital thereof or for such other purposes as may be necessary to give effect to the reconstruction or amalgamation;

(e) subject to the provisions of the scheme, the continuation by, or against, the assisted industrial concern on its reconstruction or, as the case may be, the transferee industrial concern of any actions or proceedings pending against the assisted industrial concern immediately before the date of the notified order made under sub-section (1);

(f) the reduction of the interest or rights which the members and other creditors have, in, or against, the assisted industrial concern before its reconstruction or amalgamation to such extent as the Reconstruc-

tion Bank considers necessary in the interest of the reconstruction, revival or rehabilitation of the assisted industrial concern or for the maintenance of the business of the assisted industrial concern;

(*g*) the payment in cash or otherwise to the members and other creditors in full satisfaction of their claims—

(*i*) in respect of their interests or rights, in, or against, the assisted industrial concern before the reconstruction or amalgamation; or

(*ii*) where their interests or rights aforesaid, in, or against, the assisted industrial concern has or have been reduced under clause (*f*), in respect of such interests or rights as so reduced;

(*h*) the vesting of controlling interest, in the reconstructed industrial concern, in the Central Government or its nominee either by the appointment of additional director or by the allotment of additional shares;

(*i*) the allotment to the members of the assisted industrial concern, for any share or shares held by them therein before its reconstruction or amalgamation [whether their interest on such shares has been reduced under clause (*f*) or not], of shares in the assisted industrial concern on its reconstruction, or, as the case may be, in the transferee industrial concern and where any member claims payment in cash and not allotment of shares, or where it is not possible to allot shares to any member, the payment in cash to those members in full satisfaction of their claims,—

(*i*) in respect of their interest in shares in the assisted industrial concern before its reconstruction or amalgamation; or

(*ii*) where such interest has been reduced under clause (*f*), in respect of their interest in shares as so reduced;

(*j*) the continuance of the services of such of the employees of the assisted industrial concern as may be specified in the scheme, in the assisted industrial concern itself on its reconstruction, or in the transferee industrial concern on such terms and conditions as may be specified in the scheme;

(*k*) notwithstanding anything contained in clause (*j*), where any employees of the assisted industrial concern whose services are proposed in the draft scheme referred to in sub-section (2), have, by notice in writing given to the Reconstruction Bank at any time before the expiry of one month next following the date on which the draft scheme is sent to the assisted industrial concern, intimated their intention of not becoming employees of the assisted industrial concern on its reconstruction or in the transferee industrial concern, the payment, to such employees, and to other employees whose services have not been continued in the assisted industrial concern on its reconstruction or in the transferee industrial concern, of compensation, if any, to which they are entitled under the Industrial Disputes Act, 1947, and such pension, gratuity, provident fund and other retirement benefits ordinarily admissible to them under the rules or authorisations of the assisted industrial concern as in force immediately before the date of its reconstruction or amalgamation; 14 of 1947.

(*l*) any other terms and conditions for the reconstruction or amalgamation of the assisted industrial concern;

(*m*) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(*8*) (*a*) A copy of the scheme prepared by the Reconstruction Bank shall be sent, in draft, to the assisted industrial concern and also to the transferee industrial concern and any other industrial concern concerned in the amalgamation for suggestions and objections, if any, within such period as the Reconstruction Bank may specify for this purpose;

(*b*) The Reconstruction Bank may make such modifications, if any, in the draft scheme as it may consider necessary in the light of the suggestions and objections received from the assisted industrial concern and as also from the transferee industrial concern, and any other industrial concern concerned in the amalgamation and from any members or other creditors of such industrial concerns and the transferee industrial concern:

Provided that where the transferee industrial concern is a company, the scheme aforesaid shall be laid before such company in the general meeting for the approval of the scheme by its members and no such scheme shall be preceded with unless it has been approved, with or without modification, by a special resolution passed by the members of such company.

(*9*) The scheme shall thereafter be placed before the Central Government for its sanction and the Central Government may sanction the scheme without any modifications or with such modifications as it may consider necessary, and the scheme as sanctioned by the Central Government shall come into force on such date as the Central Government may specify in this behalf:

Provided that different dates may be specified for different provisions of the scheme.

(*10*) For the purpose of assisting it to exercise the powers conferred on it by sub-section (*9*), the Central Government may constitute an advisory committee consisting of such officers of the Central Government, Reserve Bank, State Bank, public financial institutions and nationalised banks, having knowledge of, or experience in, one or more of the following matters, namely:—

(*a*) industry and industrial sickness;

(*b*) finance and banking;

(*c*) industrial relations;

(*d*) law,

as it may think fit.

(*11*) The sanction accorded by the Central Government under sub-section (*9*) shall be conclusive evidence that all the requirements of this scheme relating to the reconstruction, or, as the case may be, amalgamation, have been complied with and a copy of the sanctioned scheme certified in writing by an officer of the Central Government to be a true copy thereof, shall, in all legal proceeding (whether in appeal or otherwise) be admitted as evidence to the same extent as it may think fit.

(*12*) On and from such date of the coming into operation of the scheme or any provision thereof, the scheme or such provision shall be binding on the assisted industrial concern, or, as the case may be, on the transferee industrial concern, and any other industrial concern concerned in the amalgamation

and also on all the members and other creditors and employees of each of those assisted industrial concerns and of the transferee industrial concern, and on any other person having any right or liability in relation to any of the assisted industrial concerns or the transferee industrial concern including the trustees or other persons managing, or connected in any other manner with, any provident fund or other fund maintained by any of those industrial concerns or the transferee industrial concern.

(*13*) On and from such date as may be specified by the Central Government in this behalf, the properties, and the assets of the assisted industrial concern shall, by virtue of, and to the extent provided in the scheme, stand transferred to, and vest in, and the liabilities of the assisted industrial concern shall, by virtue of, and to the extent provided in, the scheme stand transferred to, and become the liabilities of, the transferee industrial concern.

(*14*) If any difficulty arises in giving effect to the provisions of the scheme, the Central Government may, by order, do anything, not inconsistent with such provisions, which appears to it to be necessary or expedient for the purpose of removing the difficulty.

(*15*) Copies of the scheme or of any order made under sub-section (*14*) shall be laid before each House of Parliament, as soon as may be, after the scheme has been sanctioned by the Central Government, or, as the case may be, the order has been made.

(*16*) Where the scheme is a scheme for amalgamation of the assisted industrial concern, any business acquired by the transferee industrial concern under the scheme or under any provisions thereof shall, after the coming into operation of the scheme or such provision, be carried on by the transferee industrial concern, in accordance with the law governing the transferee industrial concern, subject to such modifications in that law or such exemptions of the transferee industrial concern from the operation of any provisions thereof as the Central Government, on the recommendation of the Reconstruction Bank, may, by notification in the Official Gazette, make for the purposes of giving full effect to the scheme:

Provided that no such modification or exemption shall be made so as to have effect for a period of more than seven years from the date of the acquisition of such business.

(*17*) Nothing in this sub-section shall be deemed to prevent the amalgamation with an assisted industrial concern by a single scheme of several industrial concerns in respect of each of which an order has been made under sub-section (*1*) of this section.

Power of High Court to authorise Reconstruction Bank to prepare scheme for reconstruction, etc., of industrial concern.

50. (*1*) Where any company, being an industrial concern, is being wound up by the High Court, and the High Court is of opinion that a scheme should be made for the reconstruction, revival or rehabilitation of such industrial concern, it may, by order, authorise the Reconstruction Bank to prepare, and submit to it, a scheme for such reconstruction, revival or rehabilitation of the industrial concern.

(*2*) The Reconstruction Bank may, in pursuance of the order made by the court under sub-section (*1*), prepare a scheme for the reconstruction, revival or rehabilitation of the industrial concern referred to in sub-section (*1*), and the scheme so made may contain all or any of the matters specified in sub-section (*7*) of section 49;

Provided that no such scheme shall provide for the amalgamation or merger of the company in liquidation or of any undertaking owned by it with any other company, or any other undertaking owned by such other company, except on the authority of a special resolution passed by the members of that other company.

(*3*) The High Court may, if it is satisfied, after considering the scheme prepared under sub-section (*2*), that the scheme ensures the reconstruction, revival or rehabilitation of the industrial concern which is a company being wound up by the court; and such reconstruction, revival or rehabilitation would ensure an increase in the production of goods needed by the community, approve the scheme with or without any modification and the scheme so approved shall have effect, notwithstanding anything to the contrary contained in any other provisions of this Act or any other law, or any agreement, award or other instrument for the time being in force.

Chief Metropolitan Magistrate and District Magistrate to assist Reconstruction Bank in taking charge of property.

51. (*1*) Where any property, effects or actionable claims have been sold or leased in pursuance of any power conferred by section 39, section 40 or section 41 or where the management of an industrial concern is taken over by the Reconstruction Bank or its nominee or an undertaking of an industrial concern is amalgamated under section 49, the Reconstruction Bank or the administrator or any director, or any other person authorised by the Reconstruction Bank may, for the purpose of taking into custody or control any such property, effects or actionable claims, may, request in writing the Chief Metropolitan Magistrate or the District Magistrate within whose jurisdiction any property or books of account or other documents relating to such property or effects or actionable claims may be situated, or found, to take possession thereof, and the Chief Metropolitan Magistrate or the District Magistrate, as the case may be, shall, on such request being made to him,—

(*a*) take possession of such property, effects or actionable claims and books of account and other documents relating thereto, and

(*b*) forward them to the Reconstruction Bank, administrator, director or other person, as the case may be:

(*2*) For the purpose of securing compliance with the provisions of sub-section (*1*), the Chief Metropolitan Magistrate or the District Magistrate may take or cause to be taken such steps and use, or cause to be used, such force as may, in his opinion, be necessary.

(*3*) No act of the Chief Metropolitan Magistrate or the District Magistrate done in pursuance of this section shall be called in question in any court or before any authority.

CHAPTER IX

MISCELLANEOUS

Effect of the Act on other laws.

52. The provisions of this Act and of any rule or scheme made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the memorandum or articles of association of an industrial concern or in any other instrument having effect by virtue of any law other than this Act.

Act 43 of 1961, Act 7 of 1964 and Act 46 of 1974 not to apply to Reconstruction Bank.

53. Notwithstanding anything contained in the Income-tax Act, 1961, or the Companies (Profits) Surtax Act, 1964 or the Interest-tax Act, 1974, or any other enactment for the time being in force relating to tax on income, profits or gains, the Reconstruction Bank shall not be liable to pay income-tax, surtax, interest-tax, or any other tax in respect of—

(*a*) any income, profits or gains accruing to the Reconstruction Assistance Fund or any amount received to the credit of that Fund;

(*b*) any income, profits or gains derived, or any amount received, by the Reconstruction Bank; and

(*c*) any interest collected by, or payable to, the Reconstruction Bank in accordance with the provisions of the Interest-tax Act, 1974.

Law relating to winding up not to apply to the Reconstruction Bank.

54. No provision of law relating to winding up of corporations shall apply to the Reconstruction Bank and the Reconstruction Bank shall not be placed in liquidation, save by order of the Central Government and in such manner as it may direct.

Act 18 of 1891 to apply to the books of the Reconstruction Bank.

55. The Reconstruction Bank shall be deemed to be a bank for the purposes of the Bankers' Books Evidence Act, 1891.

Certain provisions of Act 10 of 1949 not to apply to Reconstruction Bank.

56. Nothing contained in the Banking Regulation Act, 1949, except the provisions of section 34A and section 36AD, shall apply to the Reconstruction Bank.

Act 54 of 1969 not to apply to the expansion or amalgamation of certain undertakings.

57. No provision of the Monopolies and Restrictive Trade Practices Act, 1969, in relation to the amalgamation, merger, modernisation or expansion of any undertaking to which Part III of that Act applies, shall apply when such amalgamation, merger, modernisation or expansion of such undertaking, takes place as a result of any sale, lease, purchase, amalgamation or merger in accordance with the provisions of this Act.

Returns.

58. The Reconstruction Bank shall furnish, from time to time, to the Central Government and the Reserve Bank such returns as the Central Government, or, as the case may be, Reserve Bank, may require.

Delegation of powers.

59. The Board may, by general or special order, delegate, subject to such conditions and limitations, if any, as may be specified in the said order, to the Executive Committee or any other committee constituted under this Act or to any director, officer or other employee of the Reconstruction Bank or to the directors, administrators, officers, or other persons authorised by the Reconstruction Bank to manage any assisted industrial concern or any undertaking owned by such assisted industrial concern, such of its powers and duties under this Act as it may deem necessary.

Staff of the Reconstruction Bank.

60. (*1*) Without prejudice to the provisions of section 7, the Reconstruction Bank may appoint such number of officers and other employees as it considers necessary or desirable for the efficient performance of its functions and determine their terms and conditions of appointment and service.

(*2*) The Reconstruction Bank may, notwithstanding anything contained in any other law for the time being in force or in any contract, depute any of its officers or other members of its staff to, or receive on deputation from, prescribed institutions on such terms and conditions as may be prescribed, and may also depute any of its officers or other members of its staff to any assisted industrial concern:

Provided that nothing contained in this section shall be construed as empowering the Reconstruction Bank to depute to any prescribed institution or assisted industrial concern any officer or other member of its staff on any salary, emoluments or other terms and conditions of service which are less favourable to him than those to which he was entitled immediately before such deputation.

Obligations as to fidelity and secrecy.

61. (*1*) The Reconstruction Bank shall observe, except as otherwise required by law, the practices and usages customary among bankers and, in particular, it shall not, except as otherwise provided in sub-section (*3*), divulge any information relating to, or to the affairs of, the assisted industrial concern, except in circumstances in which it is, in accordance with law or practices and usages, customary among bankers, necessary or appropriate for the Reconstruction Bank to divulge such information.

(*2*) Every director, auditor, adviser, officer or any other employee of the Reconstruction Bank shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Second Schedule.

(*3*) The Reconstruction Bank may for the purpose of efficient discharge of its functions under this Act, collect from or furnish to,—

(*a*) the Central Government,

(*b*) the Reserve Bank,

(*c*) the State Bank, or any subsidiary bank within the meaning of the State Bank of India (Subsidiary Banks) Act, 1959, or any nationalised bank, or any other scheduled bank, or any State co-operative bank or the Development Bank or other public financial institutions, or State level agencies or prescribed institutions or State Financial Corporations,

38 of 1959.

such credit information or other information as it may consider useful for the purpose, in such manner and at such times, as it may think fit.

Explanation.—For the purposes of this sub-section, the expression "credit information" shall have the same meaning as in clause (c) of section 45A of the Reserve Bank of India Act, 1934, subject to the modification that the banking company referred to therein shall mean an assisted industrial concern.

2 of 1934.

Provident fund.

62. (1) The Reconstruction Bank shall constitute, for the benefit of the officers and other employees appointed under section 60 (as also for the officers and other employees whose services have been transferred to it under section 7) in such manner and subject to such conditions as may be prescribed, such insurance and provident fund as it may deem fit.

(2) Where any such insurance or provident fund has been so constituted, the Central Government may declare that the provisions of the Provident Funds Act, 1925, shall apply to such fund as if it were a Government Provident Fund. 19 of 1925.

Indemnity of directors.

63. (1) Every director shall be indemnified by the Reconstruction Bank against all losses and expenses incurred by him in or in relation to the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A director shall not be responsible for any other director or for any officer or other employee of the Reconstruction Bank or for any loss or expenses resulting to the Reconstruction Bank from the insufficiency or deficiency of the value of, or title to, any property or security acquired or taken on behalf of the Reconstruction Bank or the insolvency or wrongful act of any debtor or any person under obligation to the Reconstruction Bank or any thing done in good faith in execution of the duties of his office or in relation thereto.

Protection of action taken in good faith.

64. No suit or other legal proceeding shall lie against the Reconstruction Bank, or any director, or officer, or other employee of the Reconstruction Bank, or any other person authorised by the Reconstruction Bank to discharge any functions under this Act, for any loss or damage caused or is likely to be caused by anything which is in good faith done or intended to be done, in pursuance of this Act or any other law or provision having the force of law.

Chairman, director, etc., to be public servants.

65. Chairman, director, adviser and auditor and every other employee of the Reconstruction Bank shall be deemed to be public servants for the purposes of Chapter IX of the Indian Penal Code. 45 of 1860.

Penalty for making false statement in applications for loans and advances.

66. If in any application, return or statement or other document made, submitted, furnished or produced for the purpose of obtaining any loan or advance or any other assistance from the Reconstruction Bank any person makes a statement—

(a) which is false in any material particular, knowing it to be false; or

(b) which omits to state any material fact, knowing it to be material;

he shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine.

Offences by companies.

67. (1) Where any offence, punishable under section 66, has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall

be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), when any offence punishable under section 66 has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

Power to make rules.

68. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) institutions and agencies in and outside, India, payment of whose loans may be guaranteed, counter-guaranteed or indemnified by the Reconstruction Bank, as may be specified under sub-section (1) of section 18;

(*b*) institutions and agencies which may be provided with the line of credit by the Reconstruction Bank for grant of loans and advances by them to industrial concerns as may be specified under clause (*d*) of sub-section (1) of section 18;

(*c*) persons who may be appointed to act as the agents of the Reconstruction Bank as required by clause (*q*) of sub-section (1) of section 18;

(*d*) borrowing of foreign currency from any source, other than the source specified in sub-section (1) of section 23;

(*e*) the powers which may be exercised and duties which may be performed by any director or administrator appointed under sub-section (1) of section 44;

(*f*) the manner in which and the conditions subject to which an insurance or provident fund may be constituted by the Reconstruction Bank as required by sub-section (1) of section 62;

(*g*) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in

two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power of Reconstruction Bank to make regulations.

69. (*1*) The Board may, with the previous sanction of the Central Government, make regulations, not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which regulations are necessary or expedient for the purpose of giving effect to the provisions of this Act and of the rules made thereunder.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) restrictions relating to the powers which may be exercised by the Chairman, in pursuance of the provisions of sub-section (*2*) of section 9;

(*b*) the time and place at which the Board shall meet and the rules of procedure (including quorum) which shall be observed by the Board in regard to the transaction of business at its meetings, as required by sub-section (*1*) of section 14;

(*c*) (*i*) the constitution of the Executive Committee or other committees and the functions thereof;

(*ii*) the time and place at which such committees shall meet; and

(*iii*) the rules of procedure (including quorum) which shall be observed by each Committee in relation to the transaction of business at its meetings, as required by section 15;

(*d*) fees and allowances which may be paid to the directors and members of the committee, as required by section 17;

(*e*) conditions and limitations, subject to which an industrial concern may enter into any kind of business, as required by clause (*i*) of sub-section (*2*) of section 19;

(*f*) the form and manner in which the balance sheet and accounts of the Reconstruction Assistance Fund shall be prepared, as required by sub-section (1) of section 29;

(*g*) the form and the manner in which the balance sheet and accounts of the Reconstruction Bank shall be prepared, as required by sub-section (*1*) of section 32;

(*h*) the duties, conduct, salaries, allowances and conditions of service of officers and other employees (whether employed on regular basis or on contract) of the Reconstruction Bank and all those who are appointed for the management of any undertaking, the management of which has been taken over; and

(*i*) any other matter which is required to be, or may be, provided for by regulations.

(3) The Central Government shall cause every regulation made under this Act to be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation, or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.

Power to remove difficulties.

70. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notification in the Official Gazette, remove the difficulty:

Provided that no such notification shall be made after the expiry of a period of two years from the appointed day.

Amendment of certain enactments.

71. The enactments specified in Parts I to III of the Third Schedule to this Act shall be amended in the manner directed in the first column thereof and such amendments shall take effect on the dates specified in the second column of that Schedule.

Substitution in Acts, rules or regulations of the Reconstruction Bank in place of the Corporation.

72. In every Act, rule or regulation in force on the appointed day, for the words "Industrial Reconstruction Corporation of India Limited", wherever they occur, the words "Industrial Reconstruction Bank of India" shall be substituted.

THE FIRST SCHEDULE

(*See* section 37)

DECLARATION REFERRED TO IN SECTION 37 OF THE INDUSTRIAL RECONSTRUCTION BANK OF INDIA ACT, 1984

I/We..... hereby declare that in consideration of the assistance given to me/us or at my/our request, by the Industrial Reconstruction

Bank of India, as specified in the Annexure hereto, I|we agree that the immovable properties specified in the said Annexure shall form a security for the said assistance and I/We agree that the dues arising out of such assistance shall, on and from the date of execution of these presents, be a charge on the said properties for the recovery of the dues of the said Reconstruction Bank.

Execution by the parties.

1. Signed and delivered by.....
(party receiving the assistance)

2. Signed and delivered by.....

(the concerned person furnishing guarantee/collateral security)

3. Signed by the duly authorised official of Reconstruction Bank.

(NOTE:—Strike out whichever is not applicable.)

THE SECOND SCHEDULE

(*See* section 61)

DECLARATION OF FIDELITY AND SECRECY

I, ..., do hereby declare that I will faithfully, truly and to the best of my skill and ability, execute and perform the duties required of me as the Chairman, Director, member of.....committee, auditor, adviser, officer or other employee of the Reconstruction Bank of India and which properly relate to the office or position held by me in or in relation to the said Reconstruction Bank.

I further declare that I will not communicate or allow to be communicated to any person not legally entitled thereto any information relating to the affairs of the Industrial Reconstruction Bank of India or to the affairs of any person having any dealing with the said Reconstruction Bank, nor will I allow any such person to inspect or have access to any books or documents belonging to or in possession of the said Reconstruction Bank and relating to the business of the said Reconstruction Bank or the business of any person having any dealing with the said Reconstruction Bank.

(*Signature*)

Signed before me.

THE THIRD SCHEDULE

(*See* section 71)

Amendments of certain enactments

PART I

AMENDMENTS TO THE RESERVE BANK OF INDIA ACT, 1934

(2 OF 1934)

Amendments	Date on which amendments shall take effect
(1)	(2)
1. In section 2, after clause (*civ*), insert the following clause, namely:—	The date of establishment of the Reconstruction Bank.
'(*cv*) "Reconstruction Bank" means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India Act, 1984.'.	
2. In section 17,—	
(*a*) in clause (*4G*), after the words "the Exim Bank", insert the words "or the Reconstruction Bank";	Do.
(*b*) in clause (*4-I*), after the words "Exim Bank", insert the words "or Reconstruction Bank";	Do.
(*c*) after clause (*4*I), insert the following clause, namely:—	Do.
"(*4K*) the making to the Reconstruction Bank of loans and advances—	
(*a*) repayable on demand or on the expiry of a fixed period not exceeding ninety days, from the date of such loan or advance against the security of stocks, funds and securities (other than immovable property) in which a trustee is authorised to invest trust money by any law for the time being in force in India; or	

Amendments (1)	Date on which amendments shall take effect (2)
(*b*) against the security of bills of exchange or promissory notes, arising out of *bona fide* commercial or trade transactions bearing two or more good signatures and maturing within five years from the date of such loan or advance;";	
(*d*) in clause (*12B*), after the words "the Exim Bank", insert the words "or the Reconstruction Bank".	The date of establishment of the Reconstruction Bank.
3. In section 42, in sub-clause (*ii*) of clause (*c*) of the *Explanation* below the proviso to sub-section (*1*), after the words "or from the Exim Bank", insert the words "or from the Reconstruction Bank".	Do.
4. In section 46C, in clauses (*c*) and (*d*) of sub-section (*2*), after the words "Exim Bank" wherever they occur, insert the words "or the Reconstruction Bank, as the case may be,".	Do.

PART II

AMENDMENT TO THE INDUSTRIAL DISPUTES ACT, 1947

(14 OF 1947)

Amendment (1)	Date on which amendment shall take effect (2)
In section 2, in clause (*bb*), after the words "Export-Import Bank of India", insert the words ", the Industrial Reconstruction Bank of India,".	The date of establishment of the Industrial Reconstruction Bank of India.

PART III

AMENDMENTS TO THE BANKING REGULATION ACT, 1949

(10 OF 1949)

Amendments (1)	Date on which amendments shall take effect (2)
1. In section 5, after clause (*ffb*), insert the following clause, namely:— '(*ffc*) "Reconstruction Bank" means the Industrial Reconstruction Bank of India established under section 3 of the Industrial Reconstruction Bank of India Act, 1984; .	The date of establishment of the Reconstruction Bank.
2. In section 18, in the *Explanation*, in sub-clause (*ii*) of clause (*a*), after the words "or from the Exim Bank", insert the words "or from the Reconstruction Bank".	Do.
3. In section 34A, in sub-section (*3*), after the words "the Exim Bank", insert the words ", the Reconstruction Bank".	Do.
4. In section 36AD, in sub-section (*3*), after the words "the Exim Bank", insert the words ", the Reconstruction Bank".	Do.
5. In section 56, in sub-clause (*ii*) of clause (*a*) of the *Explanation* under clause (*j*), after the words "the Exim Bank", insert the words ", the Reconstruction Bank".	Do.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

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